App. F. IX-4]

1926-28

File No. 136-M

Previous References. ( )

Serial Nos. 10

Later references.

Preserve

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

Part 'B' for Preserve

SUBJECT

Elimination of some restriction in the city Municipal election Rules of 1919

Secretary

See (12)

Mr. Wright

The Mysore Representative Assembly

Budget Session

June 1925.

Supplemental Resolution.

That this Assembly recommends to Government that the Municipal Regulation of 1906 and the rules framed thereunder be so modified as to remove altogether restriction now imposed of disqualifying tax-payers from standing as candidates for Municipal Councillorship and their names being omitted in the list of voters on the ground of their not paying to the Municipality taxes for a period of not less than six months next preceding the date of the publication of the list of candidates and voters so long as their names are retained in the Register of Assessment.

Mover: Mr. Mahomed Abbas Khan.

Immediate

Memo. No 5282 dt 6.6.25

The above Resolution which has been admitted by the Dewan President as a special case, is forwarddd with compliments to the Secretary to Government, Local & Legislative Departments for necessary action.

Secretary, Representative Assembly.

6/6.

Serial No.

under section 12(c) of the Municipal Regulation, every person in a municipality is qualified to be a candidate and to be entered in the list of voters for the Municipality if he for a period of not less than 6 months next preceding the date on which the list of voters is prepared or revised, has been paying taxes, other than octroi or toll, imposed in the municipality of an amount not less than such minimum as shall for the time being be fixed for that municipality by the government. In the election rules prescribed under the municipal Regulation payment of taxes for a period of not less than 6 months of an amount not less than Rs.2-8-0 in the case of city Municipalities and Re.1/- in the case of other municipalities has been prescribed as a qualification for being entered in the list of voters. ..

2. Non-payment of the prescribed tax within the prescribed period operates as a disqualification for the names of citizens being entered in the lists of voters. In connection with a resolution brought forward at the last meeting of the Legislative Council to amend the rules in this respect the Dewan was pleased to observe that as the Regulation stands the intention of the legislature was that actual payment was necessary and that if actual payment is considered on account of any policy or general consideration, as a hardship they in amending regulation must be brought up; similar to the one referred to by Mr. Paramasivam

in the case of Madras. As the present rules closely follow the wording of the regulation itself an amendment of the rules can be taken up only after the regulation itself is amended. The object of the resolution now brought forward is to dispense with the actual payment of taxes as a qualification for voters and candidates and substitute in its place "mere assessment to municipal taxes". The discussions at the last meeting of the first Legislative Council disclosed that some hardship was caused to rate-payers through the mischief of the municipal subordinates in not serving the bills for taxes in time and rendering many citizens ineligible for being entered in the list of voters. No doubt the acceptance of the proposed resolution removes an incentive for prompt collection of arrears of taxes but this disadvantage is trifling and may be overlooked as it is intended to obviate the hardship caused by municipal executive. The Municipal Councils can collect the taxes by applying the provisions prescribed in the Regulation.

3. In the case of registered land holders mere assessment to a prescribed amount is recognised in the present rules as a qualification for voters in elections for both municipal councils and Taluk Boards. As the proposed amendment is on the same lines as those proposed to be adopted in Madras the resolution may be accepted.

2nd May

I think that the balance

7.6

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7.6.25

General and Revenue Secretariat.

File No. of 19

Serial No.

1925
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Cents. Sheet

G.R.S. III-2]

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WD 2119—GPB—10.000—7-4-

General and Revenue Secretariat.

Serial No.

The file is now forwarded to Mr. Asst. Secy. (Legislative Branch) in which Mr. Thirty Eighth Amendment Bill is pending for further necessary action.

(Asst. Secy. Legislative Branch)

22/6

23/6

Legislative Branch

The bill referred to above is already introduced in this Leg. Council and the changes suggested on the acceptance of the resolution, may not be incorporated into the bill at this stage. If approved a fresh bill will be drafted and submitted for approval. Whether the general principles of the bill to be drafted have again to be placed before the Rep. Assembly is another point for orders. As the resolution itself was moved in the Rep. Assembly and accepted by Govt., this formality does not appear to be necessary, though on very strict interpretation of the rules, it may have to be done

(Leg. Secy.)

Leg. Secy. 24/6

The resolution is approved by C.A., the principle underlying the amendment must be taken to have been approved by the Assembly.

Hence a short Bill may be introduced into the next Legislature Council. If necessary it may be treated as an emergent measure & passed at one sitting

Dewan. 25/6/25. 26/6

Moving and does not be

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27/6/

DEWAN'S OFFICE

RECD. ON 29 JUN 1925

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G. R. S. III-2]

General and Revenue Secretariat.

File No. of 19

Serial No.

Extract from Mr. G. Paramasiviah's speech on Resolution -- No. 10 at the Legislative Council held in April 1925.

Resolution No. 10.- Sir, I beg to move that this Council -- recommends to the Government of His Highness the Maharaja of Mysore that the City Municipal Election Rules of 1919 be amended by the - deletion of such portion of the rules, which empower the exclusion of ratepayers, who are otherwise qualified, from the list of - - voters and candidates on the ground of their not paying taxes for a period of not less than 6 months next prior to the date of the publication of the lists of voters and candidates.

Sir, the City Municipal Election Rules which are sought to be deleted do not seem to have been contemplated by Section 11 (c) of the Municipal Regulation No. VII of 1906 in exercise of the - - powers conferred under which the existing rules have been framed - by Government. The Section enables Government to frame rules -- which are consistent with the other provisions of the Regulation. Section 12 (c) says that "Every person who, for the like period, - i.e., a period of not less than 6 months next preceding the date on which by the said rules a list of voters is required to be prepared or revised in that Municipality for election purposes, has been paying taxes, other than octroi or toll imposed in that Municipality shall be qualified to be a candidate, and to be entered in the list of voters" This means that every person who for the like period has been assessed or liable to pay taxes shall be qualified to be a candidate and a voter. I am fortified in this - view of mine by the wording of a similar provision in the Madras District Municipalities Act of 1920 and the Madras Local Boards - Act of 1920. In Section 45 of the Madras District Municipalities Act, it is stated that no person shall be included in the electoral roll as qualified to vote unless he has paid taxes, if any, due by him under the Act for such preceding year. The words has paid in those Acts clearly indicate that payment of tax is a condition precedent for the exercise and enjoyment of the franchise when the words has been paying advisedly used in our Regulation

can mean only "has been assessed or liable to pay."

* * * * * * * *

This is one of the strong grounds I urged before the Representative Assembly also; but that is not all. I say that Sub -- Rule VI (a) of Rules 5 of the City Municipal Election Rules of - - 1919, laying down that only persons who have paid for a period of not less than six months next prior to the date of the publication of the list of voters. municipal taxes. other than octroi or toll is inconsistent with what is laid down in Section 12 of the Main - Regulation. Moreover, this penalty is not either prescribed or - recognised in Chapter VIII of the Regulation which exhaustively -- deals with the methods to be adopted to recover all Municipal dues.

In page 2478 of Vol. 4 of his book, Dillon says that if the statute gives to a Municipal Corporation a specific and complete - remedy for the collection of taxes, as by distress and sale of --- property, or making them a lien upon real estate and providing for the sale thereof in default of payment- these are the remedies provided in the Regulation- this will ordinarily be regarded as ex- - cluding by implication the right to resort to any other mode of -- enforcing a tax.

There is one more anomaly in the rules complained of. The tax on buildings and lands is a yearly tax and not a half-yearly - tax, and it is made payable in two instalments for the sake of --- convenience This does not make the amounts two distinct taxes - or assessments absolutely independent of each other. Under the - existing rules even a man who has paid one instalment for the year in which the list is prepared is deprived of the privilege for default of payment of other instalment in time, thus rendering the - tax a half-yearly tax.

It is perhaps interesting to know that a resolution similar to the one under discussion was passed unanimously in a meeting of the Council of the Corporation of Madras on 31st January 1925, and was also similarly passed recently at a meeting of the Bangalore - City Municipal Council. A Bill No. 5 of 1925 to amend the Dist-

rict Municipalities Act of 1920 and the Madras Local Boards Act of 1920 with the object of deleting such provisions of the Acts which empower the exclusion of a ratepayer from the list of voters on the grounds of arrears of taxes, has been published in the Fort St. George Gazette dated the 3rd March 1925, and the arguments contained in the statement of objects and reasons of that Bill may conveniently be urged in support of my resolution. I may kindly be permitted to quote the same for the information of his House. "The main objects of this Bill are to prevent chances for corrupt practices in elections to local boards and municipalities and also to afford a clear opportunity to people to get their civic consciousness developed. Under the existing Act. elections, so far as municipalities are concerned, come off in rotation once in 3 years for each ward. The payment of tax or taxes before the 31st March, i.e., before the end of the preceding official year, is made the condition precedent for one to qualify himself as an elector. This provision is ostensibly intended to make the ratepayers realise the value of votes by enforcing payment of tax as a condition precedent to getting such a privilege. If it be so, the object is not at all fulfilled as no election is held for all the wards in a Municipality every year. While obviously there is no material advantage by the existing Act in the matter of collection of taxes there is grave danger lurking into the provisions of the Act. Since all qualified ratepayers are not called upon to exercise their franchise every year, there is absolutely no reason to suppose that payment provisions in the Act operate strongly in such cases; on the other had the Act is very likely to serve as an effective handle to ingenious hands to bring down the number of voters in elective wards to a minimum point. It is needless to point out that when the number is small temptations are great. If an Act should be efficiently operative it must contain thoroughly well defined and wholesome provisions to get through all possible contingencies; hence, to render the Act uniform in practical application and that on right and recognised lines the amendments proposed in this Bill are brought forward.

The honourable members of this House are perhaps aware, - that such restrictions do not exist in regard to the elections - to the Representative Assembly and the Legislative Council, - al- though the qualifications prescribed for the latter in Cities -- are the same as those for the Municipal elections. It is also within our knowledge that the lists prepared for Municipal elections fall far short of those prepared for elections to the other two representative bodies on account of the existence of the --- rules which are sought to be removed now.

The franchise as it exists now has not been confined to - representation of property only but it is based also to a cer- - tain extent on the right of citizenship which according to men - of advanced views ought to be the only qualification to exercise and enjoy the franchise within a Municipal area. Graduates of any University, and Advocates of our Chief Court, without pos- - sessing any property qualification whatever are eligible to vote and to stand as candidates for election under the existing rules. That being the case there is no justification for depriving the owners of property of the privilege of exercising the franchise already restricted merely because there is some delay in payment of taxes. from which one can never escape, the taxes due to a local authority being among the debts which have priority in bankruptcy and in winding up a Company either voluntary or by court.

With these remarks I commend the resolution for the kind acceptance of this House.

E.W.M.

Extract from Dewan's Speech on the resolution moved by Mr. Paramasiviah for the abrogation of such portions of the City Municipal Election Rules as empowered the exclusion of rate payers from the list of voters and candidates on the ground of non-payment of taxes for a period of six months, dated 18th April 1925.

As the Member has pointed out the rules are in conformity with the Regulation. That is the view of Government. They do not consider that the rules are in controvention of the regulation but I concede that the wording of the Regulation is some what different from that in the rules. As a matter of fact, so far as I can gather, even if the rules abrogated, the Regulation stands and even if the resolution is accepted we cannot go against the Regulation. The Regulation says "every person who has been paying" etc. I was hoping that some of our non-official members representing the legal profession would enlighten this house on the question of the terminology. The Municipal Regulation in Mysore follows the Bombay Code, and in that code as it originally stood the words "is paying" occur in the corresponding section. The amended Act modified that phraseology to "has been paying". which we have adopted. That act again has been subsequently amended and the words "has paid" have been substituted. The object of that subsequent amendment was to make the position clear as doubts were expressed, similar to those expressed here to-day, that actual payment is sine-qua-non before any voter can exercise his vote. So, I think Government would be right in saying that as the Regulation stands the intention of the legislature was that actual payment is what was meant. Therefore, if actual payment is considered, on account of any policy or general consideration, as a hardship, then an amending Regulation must be brought up similar to the one referred to by Mr. Paramasiviah in the case of Madras.

Bill for further to amend the Mysore Municipal Regulation, 1906.

Whereas it is expedient to further amend the Mysore Municipal Regulation, 1906 His Highness the Maharaja is pleased to enact as follows.

In clause (e) of section 12 of this Regulation for the words "for the like period, has been paying, the words "was assessed to" for shall be substituted

Statement of Objects &
Reasons

Under S. 12(c) of
the Mysore Municipal
Regulation, every
person in a municipality
is qualified to be a
candidate and to be
entered in the list
of voters for the municipality,
if he for a period of
not less than 6 months
next-preceding the date
on which the list
of voters is prepared
or revised has been
paying taxes, so that
non-payment of the
prescribed tax within
the prescribed period
operates as a disqualification for the names
of citizens being entered
in the lists of voters
on the one hand.
while this provision would
make the voters qualified
the value of their votes

and be an incentive for prompt collection of arrears of taxes, it is, on the other, likely to serve as effective handle in mischievous hands to bring down the number of voters.

A resolution was also brought in the ~~December~~ last session of R. B. 1945 recommending that mere assessment should be a qualification for voters and candidates, instead of payment of taxes being made a condition precedent.

The principle of the resolution herein been accepted by Govt., the municipal Regn. is proposed to be amended as in